

Applicant: Bernalillo County
Zoning, Building, Planning &
Environmental Health Department
111 Union Station St. SE
Albuquerque, NM 87111

Property Owner: Charles R. Ulery
Michael & Helen Aileen
Korfe

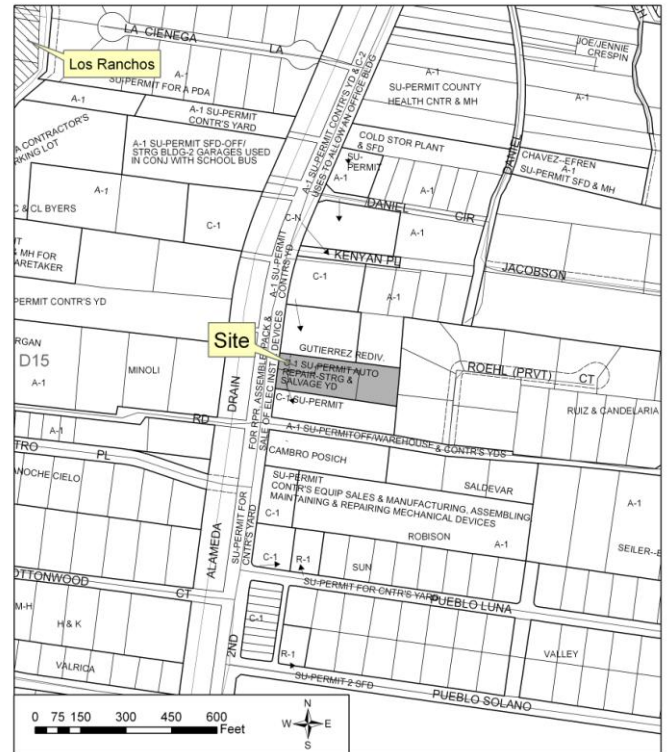
Location: 7516 A & B Second St. NW

Property Size: 1.12 acres (approximately)

Existing SUP: Special Use Permit for
Automobile Storage, Salvage
and Automotive Repair
Garage

Zoning: C-1

Recommendation: Cancellation



Summary: The Zoning, Building, Planning & Environmental Health Department is proposing cancellation of an existing Special Use Permit Automobile Storage, Salvage, and Automotive Repair Garage (CSU-79-48) on a 1.12 acre property with C-1 zoning located on Second St. NW to the north of Roehl Rd. The property currently consists of two parcels with separate owners and land uses. Despite contact from the Zoning Enforcement Office, the property does not comply with the site plan approved on 2/22/88, particularly in terms of a large amount of debris on one of the parcels. The property owners have neither abated the violations nor made application to amend the SUP to allow for the unpermitted activities.

Staff Contact: Catherine VerEecke, Program Planner

Attachments:

1. Notice of Special Use Permit (11/20/79)
2. Notices of violation (2007)
3. Notice of intent to cancel SUP (3/1/10)
4. Zone Atlas page, land use map.
5. Amended site plan (2/22/88) (Commissioners only)

CSU-79-48 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for Automobile Storage, Salvage, and an Automotive Repair Garage on Tracts 160A1 & 160A2, MRGCD Map No. 27, located at 7516 A& B 2nd Street NW, zoned C-1, and containing approximately 1.12 acres. (D-15)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

	Zoning	Land use
Site	C-1/Special Use Permit for Automobile Storage, Salvage, and an Automotive Repair Garage	Auto Repair, Auto salvage, miscellaneous debris
North	C-1/Special Use Permit for Contractor's Yard A-1	Contractor's Yard, day care Single family residential
South	A-1/Special Use Permit for Sale, Repair, and Manufacturing of Electronic Instruments and Devices	Electronic device manufacture
East	R-1	Single family residential
West	---- A-1	Second St., Drain Single family residential

BACKGROUND

Special Use Permit History & Overview

On November 20, 1979, the Board of County Commissioners authorized a Special Use Permit for Automobile Storage, Salvage, and Automobile Repair Garage on the subject property (Attachment 1—Notice of Special Use Permit, including original site plan) on a 1.12 acre tract of land with C-1 zoning located on the east side of Second St. about 100 feet north of Roehl Rd. The property now consists of two parcels with two separate owners with separate land uses, although it originally had one owner. According to the approved (amended) site plan dated 2/22/88, the northerly parcel (Tract 1) should have a house on it. Tract 2 would have automobile storage in the rear (maximum 20 inoperative vehicles) and an auto repair garage with 5 vehicles awaiting repair in the front (Attachment 5— approved Site Plan). The amended site plan also included a slatted chain link fence along the north property line, a six foot solid metal fence along the east property line, and a six foot cedar fence along the south property line. In the 1990s, the property was re-platted into the two existing tracts (Lots 160 A1 and 160A2) in which one lot (160A2) included both the house and the inoperative vehicles and the other lot (160A1) included the repair garage. The property owner then sold the tract with the repair garage (Lot 160A1) to its current owner.

Since the time of the approval of the Special Use Permit request, County zoning inspectors have noted various violations of the approved site plan and the Special Use Permit. These have included the need to install the proper fencing around the property and also the storage of more cars on the property than was allowed under the Special Use Permit. In 2007, letters were sent to both property owners from the Zoning Enforcement Office indicating that the property was not in compliance with the approved site plan (Attachment 2—Notices of Violation), particularly in terms of the numbers of vehicles stored on the site. No obvious actions were taken by the property owners to address the violations. On March 1, 2010, the Zoning Administrator sent the property owner a letter of intent to cancel the Special Use Permit (Attachment 3—Letter of Intent). Although staff had been in contact with one of the property owners, the violations were not addressed.

Most recently, follow-up inspections by staff revealed that the property remains in violation. Additional vehicles (more than 5) are located on the parcel with the repair garage (160A1), and there is a substantial amount of debris located on the other lot (160A2) that is unrelated to the approved auto storage and salvage use. In addition, the fencing currently on the site does not comply with the site plan in that fencing has been added between the two parcels, and the auto repair business does not have the required screening for vehicle storage as shown on the approved site plan. Planning staff has met with both property owners, but the violations have not been resolved.

Subject Site & Surrounding Properties

The property is located east of Second St. about 100 feet north of Roehl Rd. to the south of Osuna Rd. in an area with a mixture of residential and heavy commercial and light industrial uses. The property to the south has C-1 zoning and a Special Use Permit for Special Use Permit for Sale, Repair, and Manufacturing of Electronic Instruments and Devices (CSU-80012). The property to the north along Second St. has a C-1 zoning with a Special Use Permit for a Contractor's Yard (CZ-84-35), with a contractors business and a day care facility

on it. The property to the northeast has A-1 zoning with a single family dwelling on it. On the immediate west side of Second St., properties have A-1 zoning with residential uses, although properties further north have Special Use Permits for Contractor's Yards (e.g., CSU-85-62).

APPLICABLE REGULATIONS & POLICIES

Comprehensive Zoning Ordinance of Bernalillo County

Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

ANALYSIS

This request seeks to cancel a Special Use Permit for Automobile Storage, Salvage, and an Automotive Repair Garage on two parcels located at 7516 A & B 2nd Street NW, to the north of Roehl Rd., containing approximately 1.12 acres. The property, which has an underlying zoning of C-1, currently has two owners with two different uses—auto repair and auto storage and salvage. Although the property is on Second St., in an area with various commercial and light industrial uses, the rear portion of the property (northeast and east) is adjacent to residential uses. It appears that the original intention behind the zoning of the subject property in 1979 was to allow the owner to live on the property, operate an auto repair business in the existing garage, and restore antique cars in the rear of the property.

However, since the granting of the Special Use Permit, changes have taken place on the property that appear to be contrary to the approved site plan and the conditions of approval that limited the use to storage of 20 vehicles in the rear of the property and 5 vehicles awaiting repair in the front of the property. In particular, the changes have included the replat and sale of one of the new tracts for the auto repair business with the original owner keeping the other tract and using it for inoperative vehicle storage. Both properties appear to have deviated from the site plan and conditions of approval.

For the auto repair business (Tract 160A1), the violations include the storage of inoperative vehicles and the improper fencing of the property where the vehicles awaiting repair are not screened and a chain link fence now encloses the business. For the other property (160A2), in addition to the storage of inoperative vehicles, the owner has, over the years, been adding various materials and debris, such as sheet metal, tires, an RV, wood, and trash. In addition, the single family dwelling unit on the site is no longer occupied.

As Special Use Permits authorize land uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is required. The subject property has a number of violations of the Special Use Permit on the property which must be addressed to bring the property into compliance. This would include the following actions:

- Remove the vehicles that are in excess of those allowed on the site plan
- Comply with the fencing shown on the site plan
- Remove all debris and materials from the site that is not related to the approved uses.

The short term solution to this matter may appear to be advisement from the County to the property owners for compliance with the approved site plan and conditions of approval. However, it should be noted that this matter has been turned over from the Zoning Enforcement Office for cancellation because of the limited effort demonstrated since the 1980s to remedy the violations and ensure observance of the applicable standards. Although the Special Use Permit was granted for the life of the use, the uses on the site have expanded beyond the scope of the original Special Use Permit and the site, which abuts residential zones and uses. In any case, persistent noncompliance on the part of the owner necessitates the recommendation of cancellation from the Planning Department.

Proposed Findings for Cancellation

1. This is a request for cancellation of a Special Use Permit for Automobile Storage, Salvage, and Automobile Repair Garage on a 1.12 acre property located at 7516 A& B 2nd Street NW, zoned C-1. The property consists of two parcels—Tract 160A1 and Tract 160A2.
2. This matter is a result of continued violations of the Special Use Permit (CSU-79-48) and the corresponding site development plan approved for the permit, dated 2/22/88.
3. The property does comply with the approved site development plan in that additional vehicles are being stored on the site on Tract 160A1, fencing has been added between the two parcels, and the auto repair business is not screened. There also is a large amount of debris on the other portion of the subject property that is related to the approved uses (Tract 160A2).
4. The Bernalillo County Zoning Administrator notified the property owners of noncompliance with the provisions of the Special Use Permit on March 1, 2010, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
5. This decision removes the Special Use Permit (CSU-79-48) from the property, and reverts the zoning on the site back to the underlying zoning designation of C-1 (Neighborhood Commercial Zone).

RECOMMENDATION:

Cancellation of CSU-79-48.

Catherine VerEecke
Program Planner